

## **EXHIBIT 4**

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Ventures, Inc. and Steve Vachani

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

FACEBOOK, INC.,

Plaintiff,

-against-

POWER VENTURES, INC. d/b/a POWER.COM, a  
California corporation; POWER VENTURES, INC.  
a Cayman Island Corporation, STEVE VACHANI,  
an individual; DOE 1, d/b/a POWER.COM, an  
individual and/or business entity of unknown nature;  
DOES 2 through 25, inclusive, individuals and/or  
business entities of unknown nature,

Defendants.

Case No. 5:08-cv-05780 JF (RS)

**DEFENDANT POWER VENTURES,  
INC.'S RESPONSES TO  
FACEBOOK, INC.'S FIRST SET OF  
REQUESTS FOR ADMISSIONS**

**PRELIMINARY STATEMENT**

Preliminarily, it should be noted that defendant Power has not fully completed its investigation of the facts relating to this case, has not fully completed discovery in this action and has not completed preparation necessary for trial. All of the answers contained herein are based only on such information and documents which are presently available to and specifically known to Power. It is anticipated that further discovery, independent investigation, and legal research and analysis will supply additional facts, add meaning to the known facts, and establish entirely new factual and legal conclusions. All of these may lead to substantial additions to, modifications of and variations from the information set forth herein. The following responses are given without prejudice to Power's right to produce evidence of subsequently discovered fact or facts which Power may recall or learn at a later date. Power accordingly reserves the right to change all answers herein as additional facts are ascertained, analysis is made, and legal research is completed.

**GENERAL OBJECTIONS**

Power incorporates by reference each of the following general objections and responses as an objection and response to each of the requests for admissions, whether or not stated as a specific objection to each request.

1. Power generally objects to the requests for admissions on the ground that the requests, individually and taken as a whole, are overly broad, unduly burdensome, oppressive and seek to impose broader response obligations on Power than those imposed by the Federal Rules of Civil Procedure. In addition, Power objects to the extent that the information is equally available to plaintiff.

2. Power further objects to the requests for admissions on the ground and to the extent they seek information that is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence.

3. Power further objects to the requests for admissions to the extent they request information by reference to purported facts that Power disputes and/or which have not been established in this case. Power has advanced certain positions of law and fact. Power's statements

1 of law and fact are a matter of record and are not subject to recharacterization by plaintiff. The fact  
2 that Power responds to any such requests is not meant, and shall not be construed, as an admission  
3 of the truth of any such fact, nor of the existence of any such event or contention.

4 4. Power further objects to the requests for admissions on the ground and to the extent  
5 they call for the disclosure of communications that are protected by the attorney-client privilege,  
6 the attorney work product privilege, or any other applicable privilege. Further, Power generally  
7 objects to these requests for admissions on the ground and to the extent they seek information that  
8 can only be provided, or will or should be provided at trial by persons qualified as experts in their  
9 fields, including but not limited to economists and/or legal counsel. Power expressly reserves the  
10 right to call such persons to testify at trial without waiver of the right to protect the identities of  
11 persons who it has consulted in the course of this litigation for purposes of expert advice. Further,  
12 the inadvertent production by Power of privileged communications shall not constitute a waiver or  
13 any applicable privilege or ground for objecting to discovery.

14 5. Power further objects to the requests for admission on the ground and to the extent  
15 they purport to require disclosure of any information protected by Power's or third party's right to  
16 privacy.

17 6. Power further objects to the requests for admission on the grounds that discovery is  
18 continuing in this action and Power has not yet completed factual investigation. These responses  
19 are made in good faith and after a reasonable, diligent inquiry into the facts and information now  
20 known to Power. Accordingly, without asserting any obligation to do so, and without waiving the  
21 objections asserted herein, Power reserves the right to amend and/or supplement its responses as  
22 and when additional facts are discovered. Additionally, as Power's responses are based on facts  
23 that Power has identified to date, they do not preclude Power from later relying on facts or  
24 documents discovered or generated pursuant to subsequent investigation or discovery.

25 7. Power further objects to the requests for admissions on the grounds and to the extent  
26 they call for legal conclusions.

**REQUESTS FOR ADMISSIONS**

**REQUEST FOR ADMISSION NO. 1:**

Admit that in a letter dated December 1, 2008, FACEBOOK requested confirmation that YOU “have ceased and desisted in...soliciting, using and/or retaining Facebook user login information”

**RESPONSE TO REQUEST FOR ADMISSION NO. 1:**

Admitted.

**REQUEST FOR ADMISSION NO. 2:**

Admit that in a letter dated December 1, 2008, FACEBOOK requested confirmation that YOU “ceased and desisted in ...sending any manner of unsolicited commercial messages to Facebook users.”

**RESPONSE TO REQUEST FOR ADMISSION NO. 2:**

Admitted.

**REQUEST FOR ADMISSION NO. 3:**

Admit that in a letter dated December 1, 2008, FACEBOOK requested confirmation that YOU “removed compatibility with Facebook from your website.”

**RESPONSE TO REQUEST FOR ADMISSION NO. 3:**

Admitted.

**REQUEST FOR ADMISSION NO. 4:**

Admit that in a letter dated December 1, 2008, FACEBOOK told YOU that “scraping content from Facebook” violated FACEBOOK’s Terms of Use.

**RESPONSE TO REQUEST FOR ADMISSION NO. 4:**

Admitted.

1 **REQUEST FOR ADMISSION NO. 5:**

2 Admit that in a letter dated December 1, 2008, FACEBOOK told YOU that Facebook's  
3 Terms of Use prohibited "[s]olicitation of Facebook user login information."

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 5:**

5 Admitted.

6 **REQUEST FOR ADMISSION NO. 6:**

7 Admit that in a letter dated December 1, 2008, FACEBOOK told YOU that Facebook's  
8 Terms of Use prohibited "[u]sing or attempting to use another person's Facebook account without  
9 authorization from the Company," i.e., FACEBOOK.  
10

11 **RESPONSE TO REQUEST FOR ADMISSION NO. 6:**

12 Admitted.

13 **REQUEST FOR ADMISSION NO. 7:**

14 Admit that in a letter dated December 1, 2008, FACEBOOK told YOU that Facebook's  
15 Terms of Use prohibited "[u]se of automated scripts to collect information from, or otherwise  
16 interact with, the Facebook website."  
17

18 **RESPONSE TO REQUEST FOR ADMISSION NO. 7:**

19 Admitted.

20 **REQUEST FOR ADMISSION NO. 8:**

21 Admit that in a letter dated December 1, 2008, FACEBOOK told YOU that Facebook's  
22 Terms of Use prohibited "[u]ploading, posting, transmitting, sharing or otherwise making available  
23 any unsolicited or unauthorized advertising, solicitations, promotional materials, 'junk mail,'  
24 'spam,' 'chain letters,' 'pyramid schemes,' or any other form of solicitation."  
25

26 **RESPONSE TO REQUEST FOR ADMISSION NO. 8:**

27 Admitted.

**REQUEST FOR ADMISSION NO. 9:**

Admit that in a letter dated December 1, 2008, FACEBOOK told YOU that Facebook's Terms of Use prohibited "[u]sing the Facebook service or site for commercial purposes, except under formal advertising programs offered by Facebook."

**RESPONSE TO REQUEST FOR ADMISSION NO. 9:**

Admitted.

**REQUEST FOR ADMISSION NO. 10:**

Admit that in a letter dated December 1, 2008, FACEBOOK told YOU that Facebook's Terms of Use prohibited "[i]ncorporating any Facebook site content or information in any other database or compilation."

**RESPONSE TO REQUEST FOR ADMISSION NO. 10:**

Admitted.

**REQUEST FOR ADMISSION NO. 11:**

Admit that after receiving FACEBOOK's December 1, 2008 letter, you continued to access the FACEBOOK WEBSITE through the services available at the POWER WEBSITE.

**RESPONSE TO REQUEST FOR ADMISSION NO. 11:**

Objection vague and ambiguous. Subject to and without waiving these objections, denied.

**REQUEST FOR ADMISSION NO. 12:**

Admit that after receiving FACEBOOK's December 1, 2008 letter, YOU allowed OR provided POWER USERS with the means to access the FACEBOOK WEBSITE through the POWER WEBSITE.

**RESPONSE TO REQUEST FOR ADMISSION NO. 12:**

Admitted.

1 **REQUEST FOR ADMISSION NO. 13:**

2 Admit that after receiving FACEBOOK's December 1, 2008 letter, YOU provided POWER  
3 USERS with the means to access the FACEBOOK WEBSITE.

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 13:**

5 Admitted.

6 **REQUEST FOR ADMISSION NO. 14:**

7 Admit that after receiving FACEBOOK's December 1, 2008 letter, YOU solicited  
8 FACEBOOK USER login information, including, but not limited to, user login names, e-mail  
9 addresses OR passwords.

10 **RESPONSE TO REQUEST FOR ADMISSION NO. 14:**

11 Objection vague and ambiguous. Subject to and without waiving these objections, denied.

12 **REQUEST FOR ADMISSION NO. 15:**

13 Admit that after receiving FACEBOOK's December 1, 2008 letter, YOU stored  
14 FACEBOOK USER login information, including, but not limited to, user login names, e-mail  
15 addresses OR passwords.

16 **RESPONSE TO REQUEST FOR ADMISSION NO. 15:**

17 Admitted.

18 **REQUEST FOR ADMISSION NO. 16:**

19 Admit that after receiving FACEBOOK's December 1, 2008 letter, YOU used the  
20 FACEBOOK WEBSITE for commercial purposes.

21 **RESPONSE TO REQUEST FOR ADMISSION NO. 16:**

22 Denied.

23 / / /

24 / / /



1 **REQUEST FOR ADMISSION NO. 17:**

2 Admit that YOU have never entered into a formal advertising agreement with  
3 FACEBOOK.

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 17:**

5 Objection vague and ambiguous. Subject to and without waiving these objections, denied.  
6

7 **REQUEST FOR ADMISSION NO. 18:**

8 Admit that YOU developed OR created programming scripts OR language that would  
9 provide POWER with an automated mechanism to extract data from the FACEBOOK WEBSITE.

10 **RESPONSE TO REQUEST FOR ADMISSION NO. 18:**

11 Admitted.  
12

13 **REQUEST FOR ADMISSION NO. 19:**

14 Admit that YOU copied OR made use of at least some part, excerpt, OR portion of  
15 FACEBOOK's source code to develop, test implement, use OR provide POWER's aggregating  
16 services.

17 **RESPONSE TO REQUEST FOR ADMISSION NO. 19:**

18 Objection compound, vague and ambiguous. Subject to and without waiving these  
19 objections, denied.

20 **REQUEST FOR ADMISSION NO. 20:**

21 Admit that after receiving FACEBOOK's December 1, 2008 letter, YOU incorporated  
22 FACEBOOK WEBSITE content, DATA, or information into the POWER WEBSITE OR that  
23 services located thereon.

24 **RESPONSE TO REQUEST FOR ADMISSION NO. 20:**

25 Objection compound, vague and ambiguous. Subject to and without waiving these  
26 objections, denied.  
27

28 / / /

**REQUEST FOR ADMISSION NO. 21:**

Admit that in or about December 2008, YOU agreed to access the FACEBOOK WEBSITE OR cause others to access the FACEBOOK WEBSITE through means permitted by FACEBOOK.

**RESPONSE TO REQUEST FOR ADMISSION NO. 21:**

Admitted.

**REQUEST FOR ADMISSION NO. 22:**

Admit that after receiving notice that YOUR use of or access to FACEBOOK was not permitted by FACEBOOK, YOU took, copied, OR made use of DATA from the FACEBOOK WEBSITE without FACEBOOK'S permission to do so.

**RESPONSE TO REQUEST FOR ADMISSION NO. 22:**

Admitted.

**REQUEST FOR ADMISSION NO. 23:**

Admit that FACEBOOK implemented technical measures to block YOU from accessing the FACEBOOK WEBSITE through the POWER WEBSITE.

**RESPONSE TO REQUEST FOR ADMISSION NO. 23:**

Admitted.

**REQUEST FOR ADMISSION NO. 24:**

Admit that, in or about December 2008, FACEBOOK blocked YOUR IP address(es) from accessing the FACEBOOK WEBSITE.

**RESPONSE TO REQUEST FOR ADMISSION NO. 24:**

Objection compound, vague and ambiguous. Subject to and without waiving these objections, denied.

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/ / /

1 **REQUEST FOR ADMISSION NO. 25:**

2 Admit that, in or about January 2009, FACEBOOK blocked YOUR IP address(es) from  
3 accessing the FACEBOOK WEBSITE.

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 25:**

5 Objection compound, vague and ambiguous. Subject to and without waiving these  
6 objections, denied.

7 **REQUEST FOR ADMISSION NO. 26:**

8 Admit that FACEBOOK implemented technical measures to block YOU from providing  
9 POWER USERS with the means to access the FACEBOOK WEBSITE through the POWER  
10 WEBSITE.

11 **RESPONSE TO REQUEST FOR ADMISSION NO. 26:**

12 Objection vague and ambiguous. Subject to and without waiving these objections, denied.

13 **REQUEST FOR ADMISSION NO. 27:**

14 Admit that, on or about December 2008, YOU knew that FACEBOOK had implemented  
15 measures to block YOU OR POWER USERS from accessing the FACEBOOK WEBSITE through  
16 the services available at the POWER WEBSITE.

17 **RESPONSE TO REQUEST FOR ADMISSION NO. 27:**

18 Objection vague and ambiguous. Subject to and without waiving these objections, denied.

19 **REQUEST FOR ADMISSION NO. 28:**

20 Admit that, on or about January 2009, YOU knew that FACEBOOK had implemented  
21 measures to block YOU OR POWER USERS from accessing the FACEBOOK WEBSITE through  
22 the services available at the POWER WEBSITE.

23 **RESPONSE TO REQUEST FOR ADMISSION NO. 28:**

24 Objection vague and ambiguous. Subject to and without waiving these objections, denied.

25 **REQUEST FOR ADMISSION NO. 29:**

26 Admit that at some point subsequent to learning that FACEBOOK had implemented  
27 measures to block YOUR access to the FACEBOOK WEBSITE through the POWER WEBSITE,  
28

1 YOU circumvented those technical measures AND accessed OR gained access to the FACEBOOK  
2 WEBSITE.

3 **RESPONSE TO REQUEST FOR ADMISSION NO. 29:**

4 Denied.

5 **REQUEST FOR ADMISSION NO. 30:**

6 Admit that at some point subsequent to learning that FACEBOOK had implemented  
7 measures to block YOUR access to the FACEBOOK WEBSITE through the POWER WEBSITE,  
8 YOU accessed OR gained access to the FACEBOOK WEBSITE.

9 **RESPONSE TO REQUEST FOR ADMISSION NO. 30:**

10 Objection compound, vague and ambiguous. Subject to and without waiving these  
11 objections, denied.

12 **REQUEST FOR ADMISSION NO. 31:**

13 Admit that at some point subsequent to learning that FACEBOOK had implemented  
14 measures to block POWER USERS' access to the FACEBOOK WEBSITE through the POWER  
15 WEBSITE, YOU provided POWER USERS with the means to access the FACEBOOK  
16 WEBSITE.

17 **RESPONSE TO REQUEST FOR ADMISSION NO. 31:**

18 Objection compound, vague and ambiguous. Subject to and without waiving these  
19 objections, denied.

20 **REQUEST FOR ADMISSION NO. 32:**

21 Admit that at any time between January 1, 2007 and the present date, YOU registered for  
22 OR created at least one FACEBOOK account to access the FACEBOOK WEBSITE, including, but  
23 not limited to, to copy, take, OR use DATA contained thereon.

24 **RESPONSE TO REQUEST FOR ADMISSION NO. 32:**

25 Objection compound, vague and ambiguous. Subject to and without waiving these  
26 objections, denied.

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**REQUEST FOR ADMISSION NO. 33:**

Admit that at some point subsequent to learning that FACEBOOK had implemented measures to block YOUR access to the FACEBOOK WEBSITE through the POWER WEBSITE, POWER used accounts on third-party websites, including, but not limited to, any accounts located on OR registered through [www.amazon.com](http://www.amazon.com), to access the FACEBOOK WEBSITE, including for the purposes of copying, taking, OR making use of DATA from the FACEBOOK WEBSITE.

**RESPONSE TO REQUEST FOR ADMISSION NO. 33:**

Objection compound, vague and ambiguous. Subject to and without waiving these objections, denied.

**REQUEST FOR ADMISSION NO. 34:**

Admit that at some point subsequent to learning that FACEBOOK had implemented measures to block YOUR access to the FACEBOOK WEBSITE through the POWER WEBSITE, POWER used accounts on third-party websites, including, but not limited to, any accounts located on OR registered through [www.amazon.com](http://www.amazon.com), to access the FACEBOOK WEBSITE, including for the purposes of copying, taking, OR making use of DATA from the FACEBOOK WEBSITE.

**RESPONSE TO REQUEST FOR ADMISSION NO. 34:**

Objection compound, vague and ambiguous. Subject to and without waiving these objections, denied.

**REQUEST FOR ADMISSION NO. 35:**

Admit that at some point subsequent to learning that FACEBOOK had implemented measures to block YOUR access to the FACEBOOK WEBSITE through the POWER WEBSITE, YOU accessed the FACEBOOK WEBSITE to send, OR to encourage POWER USERS to send, unsolicited commercial messages to FACEBOOK USERS.

**RESPONSE TO REQUEST FOR ADMISSION NO. 35:**

Objection compound, vague and ambiguous. Subject to and without waiving these objections, denied.

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/ / /

**REQUEST FOR ADMISSION NO. 36:**

Admit that after receiving FACEBOOK's December 1, 2008 letter, YOU used or attempted to another person's FACEBOOK WEBSITE account information without authorization from FACEBOOK.

**RESPONSE TO REQUEST FOR ADMISSION NO. 36:**

Objection compound, vague and ambiguous. Subject to and without waiving these objections, denied.

**REQUEST FOR ADMISSION NO. 37:**

Admit that after receiving FACEBOOK's December 1, 2008 letter, YOU used automated scripts or COMPUTER CODE to collect information from, or otherwise interact with, the FACEBOOK WEBSITE.

**RESPONSE TO REQUEST FOR ADMISSION NO. 37:**

Admitted.

**REQUEST FOR ADMISSION NO. 38:**

Admit that after receiving FACEBOOK's December 1, 2008 letter, YOU uploaded, posted, OR made available promotional materials OR solicitations on the FACEBOOK WEBSITE.

**RESPONSE TO REQUEST FOR ADMISSION NO. 38:**

Objection compound, vague and ambiguous. Subject to and without waiving these objections, denied.

**REQUEST FOR ADMISSION NO. 39:**

Admit that on December 26, 2008, Steve Vachani sent an e-mail to Facebook stating YOUR "business decision" to continue accessing or using the FACEBOOK WEBSITE without implementing the Facebook Connect platform.

**RESPONSE TO REQUEST FOR ADMISSION NO. 39:**

Objection vague and ambiguous. Subject to and without waiving these objections, Power admits that Mr. Vachani sent an email to Facebook's counsel on December 26, 2008 stating:

Dear Joseph,  
I am writing to follow up to our discussions regarding Power.com's integration of Facebook connect, your requests for us to take down

1 our current Power browser compatibility with Facebook, and your  
2 complaints regarding our users storing their Facebook login  
3 information inside the Power Browser. I hope you will pass this letter  
4 on to Sam and other appropriate parties inside of Facebook to  
5 communicate our sincere desire to diplomatically resolve our current  
6 disagreement and help you reduce these disagreements with well  
7 intentioned companies like Power.

8 Power.com is very committed to working with Facebook and we  
9 sincerely hope that this message of diplomacy and good intention is  
10 very clear in this letter. We would like to reiterate that we have made  
11 the decision to make every diplomatic effort possible to cooperate  
12 with Facebook to integrate your Facebook Connect solution on our  
13 login page. We had originally expected that it would take us 2 weeks  
14 to complete this integration, but with the holidays and the amount of  
15 work necessary to complete this integration, we realistically don't  
16 expect have this new solution fully integrated until January 30<sup>th</sup>.  
17 After careful consideration and after previously thinking that it  
18 would better to take Facebook compatibility down while we  
19 implemented this new solution, we have made the business decision  
20 to not prevent the interruption of service to our millions of users  
21 while working closely to make these changes to address Facebook's  
22 concerns. We sincerely hope that while this is not your desired  
23 action, you will respect our reasons for doing this and keep the door  
24 open and approve Power.com inside of Facebook connect when we  
25 go live in one month. Furthermore, we would like to work with  
26 Facebook to offer our complete browser tools to users with  
27 Facebook's consent and input into the user experience.

28 The Power.com browser provides our users value added features  
across their Internet experience. Like most browsers, we have little  
interest to cause harm to Facebook or reduce Facebook's revenues.  
On the contrary, we are taking proactive steps to pass all Facebook  
ads through to the user inside our browser. Similar to Firefox,  
Internet Explorer, Flock, and other browsers and browser add-ons,  
we provide our users a browser to navigate and continue to use their  
existing sites and do not in any way attempt to obstruct users from  
using the sites they are accustomed to using every day. Like most  
browsers, we do offer our users the option to either start their  
experience on our home page or start on their default social network.

Furthermore, we are about to launch a new solution which will pass  
Facebook ads inside of all Facebook content which is displayed  
outside of Facebook. This is something we can have ready by the end  
of January and which we can also enable for you to offer to other  
development partners whose only desire is to create positive  
applications for Facebook users. We are committed to working with  
the entire industry to responsibly create a borderless web where all  
parties interests are respected when widgets, apps, messages, and



1 other content are distributed outside of Facebook or outside the host  
2 site of any other web publisher.

3 Power strives for complete transparency with our users by providing  
4 them explicit statements on our front page in two different places  
5 about the nature of our application, the fact that we are a value added  
6 browser with no endorsement by other sites, and we also require a  
7 user before using our service to read through and proactively accept  
8 our terms and conditions where we for the third time clarify the users  
9 consent and understanding that we are in no way affiliated with or  
10 endorsed by Facebook.

11 We completely understand Facebook's position to not begin any  
12 business discussions with Power.com until we have become  
13 compliant with Facebook requests. We request that you please  
14 reconsider this decision and enable us to meet with Facebook as early  
15 as possible to diplomatically resolve this issue in a way that will  
16 allow us to keep creating new applications for Facebook and also  
17 help Facebook better accommodate other innovators and application  
18 developers like Power.com who only want to enrich your user's  
19 experiences. We are working to implement this complete solution  
20 with Facebook's cooperation by January 30<sup>th</sup> and sincerely hope that  
21 you will not misinterpret this delay and our decision to not interrupt  
22 the user experience of our mutual users as our lack of desire to work  
23 together with Facebook.

24 If you maintain that you cannot facilitate a direct meeting, we will  
25 happily use our own contacts to start these discussions with  
26 Facebook, but it is difficult to start these discussions until after the  
27 holidays are over. We have no problem using our own contacts to get  
28 to the appropriate people at Facebook engaged in discussions in  
January to resolve this, but naturally prefer your assistance to speed  
things up.

We believe that it would be a serious strategic mistake to disrupt the  
experience of the millions of Power.com users while we are  
actively working to complete the integration of Facebook connect.  
We believe that this would create unnecessary attention and  
disruption among users, the media, and the industry around what we  
believe is a discussion that can be handled maturely and quietly  
between our companies.

I believe that Facebook understands the current challenges as Meebo  
and soon thousands of other sites that will connect to Facebook using  
open source technology solutions and other user driven solutions that  
are not endorsed by Facebook. We respect Facebook's objectives to  
create an open Internet which respects and protects users and enables  
developers to create new innovations to serve Facebook users. We  
think that it is important that we all diplomatically work together to



1 achieve these goals for the best interests of users. The borderless web  
2 is inevitable and we all need to work together to define the best  
3 practices for this new and exciting Internet which Facebook has  
4 already played such a pivotal role in helping create over the past  
5 years.

6 Power.com is very interested in sitting down with Facebook to  
7 discuss together the future of the borderless internet and work to  
8 address all of Facebook's concerns. I am willing to fly to San  
9 Francisco as early as possible to proactively present our solutions or  
10 we are happy to wait until after January 30<sup>th</sup> when we complete our  
11 integration of Facebook connect on our initial login page.

12 We believe that that your number one concern of protecting a users  
13 username and password will be resolved by our implementation of  
14 Facebook connect or by Facebook using an extension to Facebook  
15 connect that we would like to present to you which would allow  
16 Power and other outside developers maximum flexibility to innovate  
17 on top of Facebook while keeping the users username and password  
18 locked securely and safely outside the reach of Power.com or any  
19 other developer. We are currently supporting and helping introduce a  
20 new industry wide solution that will ensure that sites like Power.com,  
21 Meebo, eBuddy, and thousands of others will never have access or  
22 store Facebook usernames and passwords, but still have the  
23 maximum flexibility to innovate new applications on top of  
24 Facebook and all other sites on the Internet. We all share similar  
25 investors and partners and we are all striving for the same objectives.

26 We believe that Facebook's second concern is the potential loss of  
27 revenues when Facebook content is accessed outside of Facebook.  
28 This coming month, Power.com will be introducing a solution which  
will pass all Facebook advertising through with your content that is  
displayed outside of Facebook. We are proceeding with this without  
being asked in order to further demonstrate our desire to  
diplomatically and responsibly address the issues of distributed  
content inside of mashed up websites. Power.com has no interest to  
interfere or to prevent Facebook from receiving revenue from all its  
content and will go out of its way to showcase to the industry how to  
responsibly solve this problem. We would welcome the opportunity  
to work with you to define these standards together with the leading  
sites on the web and introduce these standards together to the  
industry and inside of Facebook connect.

Finally, as a browser, most of our users experience is actually inside  
of Facebook and other destination sites and we do not in any way  
prevent users from viewing the entire Facebook experience with all  
ads and revenues streams intact.

1 While we understand your current requests to take down the current  
2 Facebook compatibility with the Power Browser today, we strongly  
3 believe that it is a mistake to disrupt the user experience of our  
millions of users and create attention around our private discussions.

4 Unlike some other sites that you are dealing with that may truly be  
5 causing harm to Facebook, Power.com's only goal is to enable new  
6 applications which enhance Facebook's users experience inside your  
site.

7 Therefore, we diplomatically request that you please grant us an  
8 extension until January 30<sup>th</sup> to work to achieve compliance  
9 with Facebook's request and to have time to diplomatically sit down  
10 with Facebook to present solutions that will assist you in dealing  
11 with these core issues not only with Power.com, but with the  
12 hundreds of other well intentioned developers who are only looking  
to create new innovations for Facebook, but who do not yet have the  
flexibility from Facebook to support their innovations. The  
floodgates are about to open and we would love to work proactively  
to solve these challenges together.

13 We sincerely hope you respect our decision on this and look forward  
14 to building a healthy and diplomatic dialogue with Facebook to  
15 address your true concerns of protecting your users. And we  
16 apologize for the lack of clarity on our position until today and for  
17 any confusion we may have created from this lack of clarity.  
Facebook's initial strong reaction did catch us off guard and after  
careful consideration, we have crafted this letter to make clear our  
position and desire and commitment to work together.

18 Best Regards,

19 Steve Vachani

20 CEO, Power.com

21 **REQUEST FOR ADMISSION NO. 40:**

22 Admit that on December 15, 2008, YOU received an e-mail from FACEBOOK's legal  
23 counsel indicating that FACEBOOK had implemented "technical measures to limit the interaction  
24 between Power.com and its network." Dkt. No. 56 at Ex. A.

25 **RESPONSE TO REQUEST FOR ADMISSION NO. 40:**

26 Admitted.

27 / / /

28 / / /

**REQUEST FOR ADMISSION NO. 41:**

Admit that, between January 1, 2008 and present date, YOU displayed the FACEBOOK name OR logo on the POWER WEBSITE.

**RESPONSE TO REQUEST FOR ADMISSION NO. 41:**

Objection compound vague and ambiguous. Subject to and without waiving these objections, Power admits that it used the word Facebook on its website.

**REQUEST FOR ADMISSION NO. 42:**

Admit that on or before December 26, 2008, YOU began a “Launch Promotion” that promised POWER USERS the chance to win one hundred dollars if they successfully invited AND signed up new POWER USERS.

**RESPONSE TO REQUEST FOR ADMISSION NO. 42:**

Admitted.

**REQUEST FOR ADMISSION NO. 43:**

Admit that as part of the “Launch Promotion” described in Request for Admission No. 42, YOU provided POWER USERS with a list of their FACEBOOK friends that might be solicited to take part in the “Launch Promotion.”

**RESPONSE TO REQUEST FOR ADMISSION NO. 43:**

Admitted.

**REQUEST FOR ADMISSION NO. 44:**

Admit that as part of the “Launch Promotion” described in Request for Admission No. 42, YOU requested that POWER USERS’ select which of their FACEBOOK friends should receive an invitation to the “Launch Promotion” event.

**RESPONSE TO REQUEST FOR ADMISSION NO. 44:**

Admitted.

**REQUEST FOR ADMISSION NO. 45:**

Admit that as part of the “Launch Promotion” described in Request for Admission No. 42, YOU created a FACEBOOK event titled, “Bring 100 friends and win 100 bucks!” scheduled for March 20, 2009 at 1 a.m.

**RESPONSE TO REQUEST FOR ADMISSION NO. 45:**

Denied.

**REQUEST FOR ADMISSION NO. 46:**

Admit that no event occurred on March 12, 2009 at 1 a.m. in relation to YOUR “Launch Promotion” described in Request for Admission No. 42.

**RESPONSE TO REQUEST FOR ADMISSION NO. 46:**

Denied.

**REQUEST FOR ADMISSION NO. 47:**

Admit that no actual one hundred dollar payment was ever made to a POWER USER as part of YOUR “Launch Promotion” described

**RESPONSE TO REQUEST FOR ADMISSION NO. 47:**

Admitted.

**REQUEST FOR ADMISSION NO. 48:**

Admit that YOU did not inform POWER USERS participating in the “Launch Promotion” described in Request for Admission No. 42 that participation in the “promotion” would require that YOU use their FACEBOOK login information (including user name and password) to create a FACEBOOK event titled, Bring 100 friends and win 100 bucks!” scheduled for March 20, 2009 at 1 a.m.

**RESPONSE TO REQUEST FOR ADMISSION NO. 48:**

Denied.

**REQUEST FOR ADMISSION NO. 49:**

Admit that the “Launch Promotion” invitation described in Paragraphs 65 through 70 of Facebook’s First Amended Complaint against YOU (Dkt. No. 9) does not contain information describing how recipients may opt-out of receiving future promotional messages relating to OR from YOU.

**RESPONSE TO REQUEST FOR ADMISSION NO. 49:**

Objection vague and ambiguous. Subject to and without waiving these objections, denied.

/ / /

**REQUEST FOR ADMISSION NO. 50:**

Admit that the “Launch Promotion” invitation described in Paragraphs 65 through 70 of Facebook’s First Amended Complaint against YOU (Dkt. No. 9) does not contain a valid e-mail address, by which recipients of the invitation could contact YOU.

**RESPONSE TO REQUEST FOR ADMISSION NO. 50:**

Admitted.

**REQUEST FOR ADMISSION NO. 51:**

Admit that between January 1, 2008 and present date, YOU stored, saved, or otherwise retained FACEBOOK user log-in information, such as user names and/or passwords.

**RESPONSE TO REQUEST FOR ADMISSION NO. 51:**

Admitted.

**REQUEST FOR ADMISSION NO. 52:**

Admit that in an e-mail dated December 12, 2008, 1:24 p.m., YOU wrote that YOU “will delete any Facebook friend information we currently have.”

**RESPONSE TO REQUEST FOR ADMISSION NO. 52:**

Admitted.

**REQUEST FOR ADMISSION NO. 53:**

Admit that in an e-mail dated December 15, 2008, 5:01 p.m., FACEBOOK, by and through its counsel, wrote to YOU: “Meanwhile as you may know, Facebook has taken technical measure to limit the interaction between Power.com and its network at this time. In order to fully initialize your integrated Facebook Connect status, and to lift those technical measures, Facebook requires written confirmation of the following: 1. That Power has purged and destroyed all data that it obtained from the Facebook network or from Facebook users prior to implementation of Facebook Connect including all login information and/or any other data obtained or scraped from Facebook’s website.”

**RESPONSE TO REQUEST FOR ADMISSION NO. 53:**

Admitted.

/ / /

**REQUEST FOR ADMISSION NO. 54:**

Admit that, between December 1, 2008 and February 1, 2008, YOU did not delete the "Facebook friend information" in YOUR possession.

**RESPONSE TO REQUEST FOR ADMISSION NO. 54:**

Admitted.

**REQUEST FOR ADMISSION NO. 55:**

Admit that, to present date, you have not deleted, purged or destroyed all data that YOU obtained from the FACEBOOK network.

**RESPONSE TO REQUEST FOR ADMISSION NO. 55:**

Admitted.

**REQUEST FOR ADMISSION NO. 56:**

Admit that, to present date, you have not deleted, purged or destroyed all FACEBOOK login information obtained from POWER users, including, but not limited to, FACEBOOK user names and/or passwords.

**RESPONSE TO REQUEST FOR ADMISSION NO. 56:**

Admitted.

Dated: December 15, 2010

BRAMSON, PLUTZIK, MAHLER &  
BIRKHAUSER, LLP

By \_\_\_\_\_/s/  
L. Timothy Fisher

Alan R. Plutzik (State Bar No. 77785)  
L. Timothy Fisher (State Bar No. 191626)  
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Attorneys for Defendants Power  
Ventures, Inc. and Steve Vachani

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Attorneys for Defendants Power  
Ventures, Inc. and Steve Vachani

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

FACEBOOK, INC.,

Plaintiff,

-against-

POWER VENTURES, INC. d/b/a POWER.COM, a  
California corporation; POWER VENTURES, INC.  
a Cayman Island Corporation, STEVE VACHANI,  
an individual; DOE 1, d/b/a POWER.COM, an  
individual and/or business entity of unknown nature;  
DOES 2 through 25, inclusive, individuals and/or  
business entities of unknown nature,

Defendants.

Case No. 5:08-cv-05780

**PROOF OF SERVICE**



**PROOF OF SERVICE**

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Bramson, Plutzik, Mahler & Birkhaeuser, LLP, 2125 Oak Grove Road, Suite 120, Walnut Creek, CA 94598. On December 15, 2010, I served the within documents:

- **DEFENDANT POWER VENTURES, INC.'S RESPONSES TO FACEBOOK, INC.'S FIRST SET OF REQUESTS FOR ADMISSIONS**
- **DEFENDANT POWER VENTURES, INC.'S RESPONSES TO FACEBOOK, INC.'S FIRST SET OF INTERROGATORIES**
- **DEFENDANT POWER VENTURES, INC.'S RESPONSES TO FACEBOOK, INC.'S FIRST SET OF REQUESTS FOR PRODUCTION**

☒ by placing a copy of the document(s) listed above for collection and mailing following the firm's ordinary business practice in a sealed envelope with postage thereon fully prepaid for deposit in the United States mail at Walnut Creek, California addressed as set forth below.

☐ by depositing a true copy of the same enclosed in a sealed envelope with delivery fees provided for a Federal Express pick up box or office designated for overnight delivery, and addressed as set forth below.

☐ By causing a process server to personally deliver a copy of the document(s) listed above to the person(s) at the address(es) set forth below

☐ by facsimile transmission on that date. This document was transmitted by using a Canon LC 710 facsimile machine that complies with California Rules of Court Rule 2003(3), telephone number (925) 945-8792. The transmission was reported as complete and without error.

☐ by personally delivering a copy of the document(s) listed above to the person(s) at the address(es) set forth below.

☒ by pdf transmission. These documents were transmitted via e-mail to the following e-mail addresses as set forth below.

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Attorneys for Facebook, Inc.

Attorneys for Facebook, Inc.

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7 Facsimile: 212-989-9163  
8 Email: scott@bursor.com

9 I am readily familiar with the firm's practice of collecting and processing correspondence for  
10 mailing. Under that practice it would be deposited with the U.S. Postal Service on the same day  
11 with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of  
12 the party served, service is presumed invalid if postal cancellation date or postage meter date is  
13 more than one day after date of deposit for mailing in affidavit.

14 I declare under penalty of perjury under the laws of the State of California that the above is true  
15 and correct, executed on December 15, 2010, at Walnut Creek, California.

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Peggy Toovey

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